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IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-NINTH LEGISLATURE

**FORTY-SIXTH LEGISLATIVE DAY
THURSDAY, FEBRUARY 21, 2008**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Burkett, absent and formally excused by the Chair; and Senators Cameron, Goedde, Jorgenson, Pearce, Schroeder, Stegner, and Stennett, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Patricia Gorla, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 20, 2008, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Schroeder and Stennett were recorded present at this order of business.

February 21, 2008

The JUDICIARY AND RULES Committee reports that **S 1436** and **S 1437** have been correctly printed.

DARRINGTON, Chairman

S 1436 and **S 1437** were referred to the EDUCATION Committee.

February 20, 2008

The JUDICIARY AND RULES Committee reports that **S 1248**, **S 1261**, **S 1262**, **S 1288**, and **S 1337** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1248**, **S 1261**, **S 1262**, **S 1288**, and **S 1337** and ordered them transmitted to the House for the signature of the Speaker.

February 20, 2008

The JUDICIARY AND RULES Committee reports that Enrolled **S 1260**, **S 1270**, and **S 1271** were delivered to the Office of the Governor at 2:57 p.m., February 20, 2008.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 20, 2008

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 124** was delivered to the Office of the Secretary of State at 3 p.m., February 20, 2008.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 20, 2008

The JUDICIARY AND RULES Committee reports out **S 1430**, **H 409**, and **H 381** with the recommendation that they do pass.

DARRINGTON, Chairman

S 1430, **H 409**, and **H 381** were filed for second reading.

February 20, 2008

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Thomas J. Hearn to the Sexual Offender Classification Board, term to expire January 1, 2014;

Ronald Nate to the Idaho Judicial Council, term to expire June 30, 2013.

DARRINGTON, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 20, 2008

The HEALTH AND WELFARE Committee reports out **HCR 39, H 388, and H 378** with the recommendation that they do pass.

LODGE, Chairman

HCR 39 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 388 and H 378 were filed for second reading.

February 20, 2008

The EDUCATION Committee reports out **H 385**, as amended, with the recommendation that it do pass.

GOEDDE, Chairman

H 385, as amended, was filed for second reading.

February 20, 2008

The LOCAL GOVERNMENT AND TAXATION Committee reports out **S 1400** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

HILL, Chairman

There being no objection, **S 1400** was referred to the Fourteenth Order of Business, General Calendar.

February 20, 2008

The LOCAL GOVERNMENT AND TAXATION Committee reports out **S 1401** with the recommendation that it do pass.

HILL, Chairman

S 1401 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

Senators Cameron and Stegner were recorded present at this order of business.

February 20, 2008

Mr. President:

I transmit herewith **H 486, H 487, H 502, H 384, H 463, H 443, H 466, H 508, H 537, H 538, H 539, H 465, and H 495** which have passed the House.

ALEXANDER, Chief Clerk

H 486, H 487, H 502, H 384, H 463, H 443, H 466, H 508, H 537, H 538, H 539, H 465, and H 495 were filed for first reading.

February 20, 2008

Mr. President:

I return herewith **S 1322, S 1307, S 1274, S 1250, S 1342, S 1273, S 1282, S 1287, and S 1317**, which have passed the House.

ALEXANDER, Chief Clerk

S 1322, S 1307, S 1274, S 1250, S 1342, S 1273, S 1282, S 1287, and S 1317 were referred to the Judiciary and Rules Committee for enrolling.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senators Goedde, Jorgenson, and Pearce were recorded present at this order of business.

The President Pro Tempore announced that **SP 101** was before the Senate for final consideration, the question being, "Shall the proclamation be adopted?"

On motion by Senator Corder, seconded by Senator Stennett, **SP 101** was adopted by voice vote, title was approved, and the proclamation ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1438

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO CRIMES AND PUNISHMENTS; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3325, IDAHO CODE, TO PROHIBIT CERTAIN INDIVIDUALS FROM POSSESSING A CONDUCTED ENERGY DEVICE, TO PROVIDE THAT USE OF A CONDUCTED ENERGY DEVICE DURING THE COMMISSION OF A FELONY SHALL CONSTITUTE A SEPARATE OFFENSE, TO PROVIDE FOR ENHANCED PENALTIES, TO PROVIDE FOR SEPARATE AND CONSECUTIVE SENTENCES, AND TO DEFINE A TERM.

S 1438 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 486 and H 487, by Agricultural Affairs Committee, were introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 502 and H 384, by Education Committee, were introduced, read the first time at length, and referred to the Education Committee.

H 463, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

H 443, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 466 and **H 508**, by Health and Welfare Committee, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 537, **H 538**, and **H 539**, by Appropriation Committee, were introduced, read the first time at length, and referred to the Finance Committee.

H 465, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 495, by Commerce and Human Resources Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1388, by Transportation Committee, was read the second time at length and filed for third reading.

H 366 and **H 440**, by Transportation and Defense Committee, were read the second time at length and filed for third reading.

H 429, by Business Committee, was read the second time at length and filed for third reading.

H 457, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

S 1385, by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

S 1344, as amended, by Health and Welfare Committee, was read the second time at length and filed for third reading.

S 1380, as amended, and **S 1397**, as amended, by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1395 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Burkett. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1395** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President Pro Tempore declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1252**, **S 1403**, **S 1415**, **S 1422**, and **S 1431**, without recommendation, amended as follows:

SENATE AMENDMENT TO S 1252

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 19 following "of" insert: "the executive branch of"; and in line 21, following "chapter." insert: "For wage, hour and working conditions, the supreme court and the legislative council shall prescribe rules for employees of the judicial branch and the legislative branch, respectively.".

CORRECTION TO TITLE

On page 1, in line 2, following "CODE," insert: "TO PROVIDE THAT THE SUPREME COURT AND LEGISLATIVE COUNCIL SHALL PRESCRIBE CERTAIN EMPLOYMENT RULES FOR CERTAIN EMPLOYEES,".

SENATE AMENDMENT TO S 1403

AMENDMENTS TO SECTION 1

On page 2 of the printed bill, in line 32, delete "subsection (4) of this sec-" and insert: "subsections (4) and (5) of this sec-"; and on page 4, following line 25, insert:

"(5) At least one (1) person among a group of petitioners of a prospective public charter school shall attend a public charter school workshop offered by the state department of education. The state department of education shall provide notice of dates and locations when workshops will be held, and shall provide proof of attendance to workshop attendees. Such proof shall be submitted by the petitioners to an authorized chartering entity along with the charter petition.".

CORRECTION TO TITLE

On page 1, in line 5, following "TRUSTEES" insert: ", TO PROVIDE A CODE REFERENCE, TO REQUIRE ATTENDANCE AT A PUBLIC CHARTER SCHOOL WORKSHOP OFFERED BY THE STATE DEPARTMENT OF EDUCATION, TO REQUIRE SUBMISSION OF PROOF OF ATTENDANCE AND TO PROVIDE DUTIES OF THE DEPARTMENT".

SENATE AMENDMENT TO S 1415

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 48, following "wines" insert: ", to the extent permitted by federal law".

SENATE AMENDMENT TO S 1422

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 12, delete "ninety (390)" and insert: "sixty (360)"; in line 18, following "However," insert: "upon a showing of good cause, and a stipulation by"; and also in line 18, delete "or" and insert: "and"; and also in line 18, following "record" insert: "the court"; in line 19, delete "stipulate to"; in line 20, delete "with notice to the court of"; and in line 21, delete "the stipulation".

CORRECTION TO TITLE

On page 1, in line 4, delete "NINETY" and insert: "SIXTY".

SENATE AMENDMENT TO S 1431

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 25, delete "45-1505" and insert: "45-1506"; and also in line 25, following "agreement" insert: "with the owner or owners of record"; in line 26, following "in" insert: "residential real"; and also in line 26, following "property" insert: ", as defined in section 45-525(5)(b), Idaho Code,"; and also in line 26, delete ", or the transfer" and in line 27, delete "of money in regard to property subject to foreclosure,".

On page 2, in line 18, delete "45-1505" and insert: "45-1506"; in line 19, following "in" insert: "residential real"; in line 20, following "property" insert: ", as defined in section 45-525(5)(b), Idaho Code,"; and also in line 20, delete ", or the transfer of money in regard to prop-"; and in line 21, delete "erty subject to foreclosure,"; in line 30, following "agreement." insert: "Neither funds nor an interest in the property shall be transferred or transferable until the five (5) days have passed."; following line 38, insert:

"45-1604. EXCLUSIONS. The provisions of this chapter shall not apply to:

(1) Regulated lenders, as defined in section 28-41-301(37), Idaho Code;

(2) Any person licensed or chartered under the laws of any state or of the United States as a bank, trust company, savings and loan association, credit union, or industrial loan company. The terms "bank," "trust company," "savings and loan association," "credit union" and "industrial loan company" shall include affiliates or wholly-owned subsidiaries of such organizations, provided that the affiliate or subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes;

(3) Mortgage lenders and mortgage brokers licensed under the Idaho residential mortgage practices act, sections 26-3101 et seq., Idaho Code;

(4) Employees and agents of the organizations specified in subsections (1), (2) and (3) of this section, when acting within the scope of such employment or agency; and

(5) Family member or members of the owner or owners of record of any interest in residential real property subject to foreclosure. For purposes of this chapter, "family member or members" means a natural person or the spouse of a natural person who is related to such owner or owners of record by blood, adoption or marriage within the second degree of consanguinity or a grandchild or the spouse of a grandchild.";

and in line 39, delete "45-1604" and insert: "45-1605".

CORRECTION TO TITLE

On page 1, in line 6, following "RESCISSION" insert: ", TO PROVIDE FOR EXCLUSIONS".

The Committee also has **S 1361**, **S 1329**, **S 1353**, and **S 1398** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Langhorst, the report was adopted by voice vote.

S 1252, as amended, **S 1403**, as amended, **S 1415**, as amended, **S 1422**, as amended, and **S 1431**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Stegner, granted by unanimous consent, the Senate returned to the Thirteenth Order of Business.

Third Reading of Bills

S 1429 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Burkett. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1429** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Little, granted by unanimous consent, **S 1405** retained its place on the Third Reading Calendar for one legislative day.

S 1410 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bastian arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Burkett. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1410** passed, title was approved, and the bill ordered transmitted to the House.

S 1384 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Lodge and McGee arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Burkett. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1384** passed, title was approved, and the bill ordered transmitted to the House.

The President assumed the Chair.

S 1426 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Burkett, Langhorst. Total - 2.

Total - 35.

Whereupon the President declared **S 1426** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:05 p.m. until the hour of 4:30 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 4:30 p.m., pursuant to recess, President Risch presiding.

Roll call showed all members present except Senators Burkett, McKague, and Stennett, absent and formally excused by the Chair; and Senators Cameron, Hill, Lodge, McGee, Pearce, Schroeder, and Stegner, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business, Reports of Standing Committees.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Broadsword, granted by unanimous consent, **S 1379** was referred to the Fourteenth Order of Business, General Calendar..

On request by Senator Little, granted by unanimous consent, **S 1387** retained its place on the Third Reading Calendar for one legislative day.

Senators Hill, Lodge, Pearce, Schroeder, and Stegner were recorded present at this order of business.

S 1389 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Heinrich arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Werk. Total - 30.

NAYS--None.

Absent and excused--Burkett, Cameron, McGee, McKague, Stennett. Total - 5.

Total - 35.

Whereupon the President declared **S 1389** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Coiner, granted by unanimous consent, **S 1348** retained its place on the Third Reading Calendar for one legislative day.

On request by Senator Lodge, granted by unanimous consent, **S 1414** retained its place on the Third Reading Calendar for Tuesday, February 26, 2008.

Senator Cameron was recorded present at this order of business.

S 1383 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway. Total - 29.

NAYS--Werk. Total - 1.

Absent and excused--Burkett, McGee, McKague, Stegner, Stennett. Total - 5.

Total - 35.

Whereupon the President declared **S 1383** passed, title was approved, and the bill ordered transmitted to the House.

S 1419 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Werk. Total - 31.

NAYS--None.

Absent and excused--Burkett, McGee, McKague, Stennett. Total - 4.

Total - 35.

Whereupon the President declared **S 1419** passed, title was approved, and the bill ordered transmitted to the House.

Senators McGee and Stennett were recorded present at this order of business.

S 1425 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Coiner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Gannon, Goedde, Hammond, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, Sagness (Malepeai), Schroeder, Stegner, Stennett, Werk. Total - 25.

NAYS--Fulcher, Heinrich, Hill, McKenzie, Pearce, Richardson, Siddoway. Total - 7.

Absent and excused--Burkett, Geddes, McKague. Total - 3.

Total - 35.

Whereupon the President declared **S 1425** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 5:40 p.m. until the hour of 10 a.m., Friday, February 22, 2008.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary